



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,777	10/29/2003	Shinichi Kawano	244556US6	6717

22850 7590 02/26/2007
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER

WOOD, WILLIAM H

ART UNIT	PAPER NUMBER
----------	--------------

2193

SHORTENED STATUTORY PERIOD OF RESPONSE	NOTIFICATION DATE	DELIVERY MODE
3 MONTHS	02/26/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 02/26/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

Office Action Summary

Application No.

10/694,777

Applicant(s)

KAWANO ET AL.

Examiner

William H. Wood

Art Unit

2193

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-9 and 11-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-9 and 11-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 1/10/2007.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claims 1-2, 4-9 and 11-14 are pending and have been examined.

Information Disclosure Statement

1. The Information Disclosure Statement filed on 10 January 2007 has been considered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3. Claims 1-2, 4-9 and 11-14 are rejected under 35 U.S.C. 102(a) as being anticipated by **Gronemeyer** et al. (USPN 6,363,359).

Claim 1

Gronemeyer disclosed a software updating system, comprising:

a plurality of update data supplying apparatuses for supplying update confirmation information regarding the presence or absence of updates for predetermined software via a network (*figure 4, elements 342 and 344; column 7, lines 56-58, "server"*);

an electronic device for executing a process in accordance with said update confirmation information supplied from said update data supplying apparatus (*figure 4, element 302; column 7, lines 52-54, "client computing device"*), wherein

said electronic device includes:

storing means for storing an update confirmation cycle for said installed software,

judging means judging whether or not, among said installed software, there exists software for which the presence of updates needs to be confirmed based on said update confirmation cycle (*column 7, lines 26-27, "log"; column 7, lines 56-58, results sent*)

detection means for detecting said update data supplying apparatus to which an inquiry is to be made on the presence of updates for said software for which said judging means has judged a confirmation to be necessary (*figure 3, element 206; column 7, lines 31-32*);

inquiring means for making an inquiry on the presence of updates for said software to said update data supplying apparatus detected by said detection means (*figure 3, element 208; column 7, lines 56-58*); and

execution means for executing a process based on said update confirmation information supplied from said update data supplying apparatus in response to said inquiry made by said inquiring means (*figure 3, element 210*), and

said update data supplying apparatus includes:

confirmation means for confirming the presence or absence of updates for said software regarding which there was an inquiry on the presence of updates by said inquiring means of said electronic device (*column 7, lines 56-58, to send update options those options are first determined, not "available"*); and

supplying means for supplying to said electronic device said update confirmation information in accordance with a confirmation result by said confirmation means (*column 7, lines 56-58*).

Claim 2

Gronemeyer disclosed the software updating system according to claim 1, wherein said update confirmation information is one of update data for updating said software and information indicating the presence or absence of updates (*column 7, lines 56-28*).

Claim 4

Gronemeyer disclosed the software updating system according to claim 1, wherein said judging means of said electronic device judges all of said installed software to be software for which the presence of updates needs to be confirmed when a predetermined event occurs (*column 6, lines 61-63, "POST"*).

Claim 5

Gronemeyer disclosed the software updating system according to claim 4, wherein said event is one of the turning on of the power of said electronic device and the arrival of a predetermined time (*column 6, lines 61-63, "POST" and at the sentinel load time*).

Claim 6

Gronemeyer disclosed the software updating system according to claim 1, wherein after said update data supplying apparatus is detected by said detection means, said inquiring means of said electronic device waits until a predetermined time and makes an inquiry on the presence of updates for said software (*figure 3, elements 202 and 208; waits until after configuration inspection*).

Claims 7-9 and 11-14

The limitations of claims 7-9 and 11-14 are substantially the same as for claims 1-6 and are rejected in the same manner.

Response to Arguments

4. Applicant's arguments filed 22 November 2006 have been fully considered but they are not persuasive. Applicant argues **Gronemeyer** does

Art Unit: 2193

not disclose “means for storing an update confirmation cycle for said installed software; means for judging whether or not, among said installed software, there exists software for which the presence of updates needs to be confirmed based on said update confirmation cycle” (Remarks: page 13, third full paragraph). As previously indicated in the rejection of claim 3, a sentinel judges or determines the software on a client and sends the results to a server (**Gronemeyer**: column 7, lines 26-27 and lines 56-58). The update confirmation cycle is the information stored in log during this particular cycle of information harvesting (by the sentinel) of **Gronemeyer**. The judging is the preparation and determination of the software to be recorded in the log. Based upon the above reasoning, Applicant’s argument “the sending of the log occurs after the log is created”, is not clear. Under the broadest reasonable interpretation of the claim language, the rejections are maintained as above indicated.

The double patenting rejection and the objection to the Declaration are withdrawn.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply

Art Unit: 2193

is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

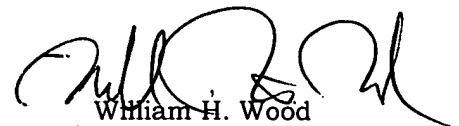
Correspondence Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William H. Wood whose telephone number is (571)-272-3736. The examiner can normally be reached 10:00am - 4:00pm Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on (571)-272-3756. The fax phone numbers for the organization where this application or proceeding is assigned are (571)273-8300 for regular communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR systems, see <http://pair-direct.uspto.gov>. For questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-3900.



William H. Wood
Patent Examiner

AU 2193

February 20, 2007